

# Notice of Allowability

Application No.

09/987,614

Examiner

Binta M. Robinson

Applicant(s)

BLANC ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 3/16/2004.
2. ☒ The allowed claim(s) is/are 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57  
(now renumbered as claims 1-27 respectively).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 08/765,907.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

A. After the title, on line 1, page 1 of the specification, the phrase "This application is a DIV of 08/765907 filed 3/20/1997 which is a 371 of PCT/FR95/00889 filed 07/04/1995.

Authorization for this examiner's amendment was given in a telephone interview with Joel German on 6/22/2004.

The application has been amended as follows:

A. In claim 30, page 2 of the amendment filed 3/26/2004, line 11, the phrase "for meta derivatives" is deleted.

B. In claim 30, page 3, line 7, of the amendment filed 3/26/2004, the phrase "-or para derivatives" is amended to ---or---.

C. In claim 30, page 4, line 9, page 4 of the amendment filed 3/26/2004, the phrase "-or meta-para disubstituted derivatives:" is amended to -or--.

D. In claim 30, page 5, line 2, of the amendment filed 3/26/2004, the phrase "-for ortho-para disubstituted derivatives:" is amended to ---or----.

### **Reasons For Allowance**

The following is an examiner's statement of reasons for allowance: The closest prior art reference is Jones et. al. (See Reference A). One of the primary differences between the Jones compound and the instantly claimed compound is the R<sup>1</sup> group. In the instant compound, the R<sup>1</sup> group is a 4-halo benzyl moiety. In the Jones compound, the R<sup>1</sup> group is -CH<sub>2</sub>CH<sub>2</sub>COOH. At columns 1-46, see the compound, D-alpha-Glutamine, N<sub>2</sub>-[1-(N-acetyl-4,6-di-O-acetylmuramoyl)-L-prolyl].

The prior art reference does not teach nor suggest to one of ordinary skill in the art how to modify the prior art compound to derive the instant compound. Therefore the instant claims are allowable therefrom.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571) 272-0692. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 571-272-0699.

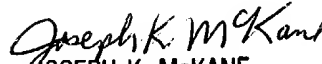
A facsimile center has been established. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703)308-4242, (703)305-3592, and (703)305-3014.

Art Unit: 1625

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-272-1600.



BMR  
June 23, 2004



JOSEPH K. MCKANE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600